

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticide

**Chapter 1. Advisory Commission on
Pesticides**

Subchapter A. Authority

§101. Authority

A. Under the authority of the Louisiana Pesticide Law, R.S. 3:3201, et seq., and in accordance with the provisions in R.S. 49:950, et seq., the commissioner of agriculture adopts the following regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983).

Subchapter B. Definitions

§103. Definitions

Bulk Storage of Pesticides? the storage of any pesticide which is held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.

Director? the director of the pesticide commission or his duly authorized representatives acting at his direction.

District Office? any office of the department other than the Baton Rouge main office.

Herbicide? any substance or mixture of substances intended for use in preventing or inhibiting the growth of, killing, or destroying plants and plant parts defined to be pests by the commissioner. The term "herbicide" shall for the purposes of these regulations include a substance or mixture of substances intended for use as a plant growth regulator, defoliant, or desiccant.

Inorganic Arsenical? any herbicide containing a compound formed by a reaction between arsenic and any substance which does not contain a carbon-hydrogen (organic) group (radical). Examples are arsenic trioxide, sodium arsenate, and arsenic acid.

Insecticide? any substance or mixture of substances intended for preventing or inhibiting the establishment, reproduction, development, or growth of; destroying; or repelling any member of the class insecta or other allied classes in the phylum arthropoda that is defined as a pest by the commission.

Phenoxy Herbicides? any herbicide as defined above that contains a phenoxy derivative of lower aliphatic acid as an ingredient thereof.

Public Utility? a business or service which is engaged in regularly supplying the public with a service which is of public consequence and need, such as electricity, gas, water, transportation, or telephone or telegraph service.

Resident? any person who has been domiciled in Louisiana for a period of at least 90 days immediately preceding the date of application for the license and/or certification and has not claimed residence elsewhere for any purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

**Subchapter C. Operation of the
Commission**

§105. Filings with the Commission

A. All notices, petitions, documents, or other correspondence to the commission or the commissioner shall be addressed and mailed to: Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, Baton Rouge, Louisiana 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983).

§107. Chairman; Presiding Officer

A. The chairman shall serve a term of one year or until a successor is elected. In the absence of the chairman, the vice-chairman shall preside. In the absence of both the chairman and the vice-chairman, the chairman's duly appointed representative shall preside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3212.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983).

§109. Expulsion

A. Each member being considered for expulsion and his sponsoring group, if any, shall be notified of the upcoming action at least 15 days before the commission meeting at which the action is to be considered. This notice shall be by certified mail. The commission may excuse an absence of a member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3211.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983).

Subchapter D. Registration of Pesticides

§111. Registration Required

A. No pesticide shall be sold, offered for sale, or distributed in this state without being registered by the manufacturer annually with the department. This registration shall expire on December 31 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983).

§113. Chart of Tolerances

A. Content of active ingredients on all pesticides should be at the level of guarantee. However, determination of compliance based on assay of a single sample shall be made as follows.

1. A single sample whose assay deviates below the stated guarantee shall be considered in compliance except as noted in Paragraph 2, below, if its active ingredients are found to be within the following ranges:

Active Ingredient % Guaranteed	Allowable Deviation Below Guarantee
Up to 1.00%	15% of Guarantee
1.01%?19.99%	0.1 plus 5% of Guarantee
20.00%?49.99%	0.5 plus 3% of Guarantee
50.00%?100.00%	1.0 plus 2% of Guarantee

2. A single sample whose assay deviates below the stated guarantee beyond the above limits may not be considered *deficient* if special sampling problems such as those associated with fertilizer-pesticide mixtures and granular formulations or if problems associated with accuracy, specificity or reproducibility of the method of analysis can reasonably be expected to have contributed to the lower assay.

3. A single sample whose assay ranges above the stated guarantee shall be judged individually. However, an assay ranging above the stated guarantee shall not be considered violative if:

- no illegal residue can be expected to result when product is used according to label directions;
- no significant increase in hazard to man or the environment can be expected to result when product is used according to label directions;
- stability of the formulation or ingredients thereof require over-formulation to insure that assay over a period stated on the label shall not fall below the minimum provided in Paragraph 1, above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3225 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission of Pesticides, LR 11:942 (October 1985).

§115. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the commissioner; or on forms or formats which have the prior, written approval of the commissioner.

1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which the label has been changed shall be accompanied by the following information:

- the brand of the pesticide;
- the name, address and contact person of the manufacturer of the pesticide;
- two complete copies of the labeling of the pesticide, containing:
 - the specific name of each active ingredient in the pesticide;
 - the percentage of the active ingredients in the pesticide;
 - the percentage of the inert ingredients in the pesticide;
 - the net contents of each package in which the pesticide will be sold;
 - a statement of claims made for the pesticide;
 - directions for the use of the pesticide, including warnings or caution statements;
- the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;
- such other information as the commissioner may require.

2. Application for re-registration of a pesticide for which the label has not been changed shall be accompanied by the following information:

- the brand of the pesticide;
- the name, address and contact person of the manufacturer of the pesticide;
- such other information as the commissioner may require.

3. The registration requirements as described in LAC 7:XXIII.115.A. shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;
2. the label on the pesticide does not comply with state and federal requirements;
3. use of the pesticide may produce unreasonable adverse effects on the environment;
4. information required in LAC 7:115.A has not been furnished to the commissioner by the manufacturer.

C. Any pesticide registered in Louisiana must comply with the following.

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
2. Each shipping container must bear the lot or batch number of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 23:192 (February 1997), LR 23:853 (July 1997).

§117. Special Registrations

A. The commissioner may issue the following registrations:

1. State Experimental Use Permits (5f, FIFRA). If the EPA authorizes the commissioner to issue state experimental use permits, the following terms and conditions shall apply:

- a. each person wishing to accumulate information necessary to register a pesticide for a special local need in this state shall file five copies of an application containing the following information:
 - i. the manufacturer's name;
 - ii. the name, address and telephone number of the applicant;
 - iii. the proposed date of shipment or proposed shipping period not to exceed one year;
 - iv. the percentage of the active ingredients in the pesticide;
 - v. the percentage of the inert ingredients of the pesticide;
 - vi. a statement of the approximate quantity to be tested;
 - vii. available summary of test results on the acute toxicity of the pesticide;
 - viii. a statement of the scope of the proposed experimental program, including:

(a). the type of pests or organisms included in the study;

(b). the crops, animals or commodities to be included in the study;

(c). the areas of the state in which the study is to be conducted;

(d). the results of any previous tests conducted by the applicant of the pesticide in this or any other state.

ix. When the pesticide is to be used on food or feed, a temporary tolerance must be obtained from the EPA or evidence that the proposed experiment will not result in injury to man or animals, or in illegal residues entering the food chain.

x. The proposed labeling which must bear:

(a). the prominent statement *For Distribution and Experimental Use Only Within Louisiana* on each container label and any labeling that accompanies the pesticide;

(b). an adequate caution or warning statement to protect those who may handle or be exposed to the pesticide;

(c). the name and address of the manufacturer;

(d). the point of destination of the pesticide;

(e). directions for use;

(f). a statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients.

b. after an application has been received, the commissioner shall review it for completeness. If the commissioner determines that an application is not complete, the applicant shall be allowed to submit such subsequent data as required by the commissioner for review. If the commissioner determines that an application is complete, he shall assign the application to an ad hoc advisory committee consisting of:

i. director, Pesticides and Environmental Programs, Department of Agriculture and Forestry, or his designee;

ii. assistant commissioner, Office of Agricultural and Environmental Sciences, Department of Agriculture and Forestry, or his designee;

iii. director, Louisiana Cooperative Extension Service, or his designee;

iv. director, Louisiana Agricultural Experiment Station, or his designee;

v. the member of the commission who represents the Louisiana Wildlife Federation, or his designee.

c. the committee shall consider the application based on the following criteria:

i. the applicant's need for the permit in order to accumulate data to support a special local needs registration;

ii. that the labeling is complete and correct as required in §117.A.1.a.x;

iii. that use of the pesticide under the permit will not cause unreasonable adverse effects on the environment;

iv. that either the applicant has supplied evidence that a tolerance or exemption from the requirement of a tolerance has been established for residues of the pesticide on such food or feed under Section 408 of the Federal Food, Drug and Cosmetic Act; or that the applicant shall destroy all food or feed crops involved in the project.

d. After receiving the recommendations of the committee, the commissioner may: grant the request, in which event he shall prescribe the terms, conditions, and period of time of the permit; or deny the permit.

e. The commissioner may revoke a permit if he finds that:

i. the terms and conditions of the permit have been violated, or are inadequate to avoid unreasonable adverse effects on the environment;

ii. any required tolerance under the Federal Food, Drug, and Cosmetic Act (12 U.S.C. 301, et seq.) has been revoked by EPA or any exemption from the requirements for tolerance has been withdrawn by EPA;

iii. the permittee or any cooperator has failed to comply with any other federal or state law or regulation concerning state experimental use permits.

2. Special Local Needs Registration (24-C FIFRA)

a. Each person wishing to register a pesticide for a special local need in this state shall file five copies of an application containing the following:

i. name and address of the applicant and any other person whose name will appear on the labeling or in the directions for use;

ii. the name of the pesticide product, and, if the application is for an amendment to a federally registered product, the EPA registration number of that product;

iii. a copy of proposed labeling, including all claims made for the product as well as directions for its use to meet the special local need, consisting of:

(a). for a new product, a copy of the complete proposed labeling; or

(b). for an additional use of a federally registered product, a copy of proposed supplemental labeling and a copy of the labeling for the federally registered product;

iv. the active ingredients of the product, if the application is for a new product registration;

v. the appropriate application fees as required by §131 of these regulations.

b. The issuance or denial of a registration of a pesticide under this Section shall be done in accordance with federal regulations. The commissioner may refer this application to an ad hoc committee composed of:

i. director, Advisory Commission on Pesticides, or his designee;

ii. director, Louisiana Cooperative Extension Service, or his designee;

iii. director, Louisiana Agricultural Experiment Station, or his designee;

iv. one agricultural consultant;

v. one farmer;

vi. such other members appointed by the commissioner as the commissioner deems necessary.

c. The committee shall consider the application based on the following criteria:

i. that the labeling is complete and correct;

ii. that use of the pesticide under the permit will not cause unreasonable adverse effects on the environment;

iii. that there is no other pesticide product registered with EPA for the same use;

iv. that no other pesticide product is registered with EPA which would be as safe and as efficacious, under the conditions of use proposed for a special local need;

v. that there is no EPA registered product available;

vi. that there is an EPA tolerance established for the product, if it is to be used on a food or a feed crop;

vii. that the special local needs application is based on a changed use pattern;

viii. that the product shows promise of efficacy for the condition under which it will be used;

ix. such other considerations as the commissioner deems appropriate.

d. After receiving the recommendation of the committee the commissioner may:

i. grant the registration, in which event he may prescribe the terms and conditions of use; or

ii. deny the registration.

e. The commissioner may amend or revoke a registration if he finds that:

i. the terms and conditions of the registration have been violated, or are inadequate to avoid unreasonably adverse effects on the environment;

ii. any required tolerance under the Federal Food, Drug, and Cosmetic Act (12 U.S.C. 301, et seq.) has been revoked by EPA or any exemption from the requirements for tolerance has been withdrawn by EPA;

iii. the registrant has failed to comply with any other federal or state law or regulation concerning state experimental use permits.

3. Special Exemptions

a. Specific exemption applications shall be completed in accordance with federal requirements after receiving the recommendations of the director the Louisiana Cooperative Extension Service or his designee and the director of the Louisiana Agricultural Experiment Station, or his designee.

b. Quarantine-Public Health Exemption. The commissioner may apply to EPA for a quarantine and/or public health exemption to allow the application of a pesticide if the commissioner finds that a foreign pest or a pest not previously known to be established in Louisiana threatens to become established. This application will be completed in accordance with federal requirements.

c. Crisis Exemption. The commissioner may issue a crisis exemption in accordance with federal regulations for the use of an unregistered pesticide if he finds that:

i. a situation involving the unpredictable outbreak of pests in the state is occurring;

ii. there is no readily available pesticide registered for the particular use to eradicate or control the pest; and

iii. the time element with respect to the application of the pesticide is so critical that there is no time to request a registration under any other Section of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3222.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

§119. Supervision of Use

A. The sale, use, storage, distribution, transportation, or disposal of pesticides registered under this Subchapter shall be subject to the supervision by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission Pesticides, LR 9:169 (April 1983).

Subchapter E. Applicators, Salespersons and Agricultural Consultants

§121. Examinations of Applicators, Salespersons and Agricultural Consultants

A. The minimum score necessary for successful completion of examinations for certifications under these rules shall be 70 points.

B. The director, in cooperation with the director of the Cooperative Extension Service or his designee, shall be responsible for the preparation of all examinations.

C. The director shall be responsible for the administration and grading of all examinations.

D. Each applicant who fails to receive a passing score on any test in any category or subcategory shall wait a minimum of 10 days before being eligible for re-examination.

E. No person shall be allowed to take an examination in any category more than three times in a 12-month period.

F. Louisiana citizens who have failed any examinations under these standards shall not be permitted to receive certification under a reciprocal agreement with another state.

G All applicants for private applicators' certification must be at least 16 years of age or an emancipated minor. All applicants for salesperson certification must be at least 18 years of age or an emancipated minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3241 and 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

Subchapter F. Certification

§123. Certification of Private Applicators

A. Certification for private applicators shall be issued only after the applicant has satisfactorily passed an examination or has satisfactorily completed a training course approved by the commissioner.

B. Examinations for certification for private applicators or pesticides will be given during office hours upon request of the applicant, in Baton Rouge, at the office of Pesticides and Environmental Programs, at any district office of the department, or at the office of the county agent in any parish of the state.

C. Each person that has been certified as a private applicator and whose certification has not been revoked or suspended may renew that certification by attending a recertification meeting or passing an examination as designated by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

§125. Certification of Commercial Applicators

A. The commissioner hereby establishes the following standards as qualifications required for certification.

1. Standards applicable to all categories:

a. must be at least 18 years of age or an emancipated minor;

b. must be able to read and write the English language with sufficient proficiency to demonstrate comprehension of label and labeling content and instructions;

c. must submit an application for certification in the form required by the commissioner;

d. must be able to demonstrate knowledge of the principles and practices of pest control and the safe use of pesticides. Applicants must demonstrate these capabilities by successfully completing the general standards examinations;

e. must be able to successfully complete an examination in the specific category in which certification is sought;

f. all prior certifications, if any, must be in good standing at the time that the application for any examination is filed.

2. An individual applying for certification in Category 7c (see §125.B.2) must have two years of experience in the phase of work in which he is making application. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

3. An individual applying for certification in Category 8d (see §125.B.2) must have either:

a. a bachelor's degree with at least 12 hours in entomology; or

b. at least four years of experience in mosquito control working under supervision of a person certified in Category 8d. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

4. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, who have been found to have violated a provision of the Louisiana Pesticide Law or any of the rules or regulations adopted pursuant to that law by the Advisory Commission on Pesticides or the commissioner, or who received a "warning letter" from the department during the past calendar year, shall attend a department-approved off-target training course prior to making any application in the following year, in order to maintain their certification as a commercial aerial applicator.

5. Commercial aerial pesticide applicators who are certifying for the first time or who have not been certified within the past three years, with the single exception of aerial mosquito pest control applicators, must attend a department-approved off-target training course prior to making any application.

B. Categories are established on the basis of the location where the application of pesticides will be made, and each applicant for certification is required to successfully complete an examination in the category in which the applicant desires certification.

1. Certification in a category authorizes the commercial applicator to make application of or supervise

the application of restricted use pesticides in the areas listed for each category.

2. The commissioner hereby establishes the following categories and subcategories of certification for commercial applicators.

[Note: The classifications in this Subsection reflect national categories established by EPA.]

a. Agricultural Pest Control (Category 1). This Category includes commercial applicators using or supervising the use of restricted use pesticides on agricultural lands, grasslands and non-crop agricultural lands.

i. This Category also includes commercial applicators using or supervising the use of restricted use pesticides on animals and to places on or in which animals are confined.

ii. This Category includes Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large scale use of pesticides.

b. Forest Pest Control (Category 2). This Category has been subdivided into the following three Subcategories:

i. General Forestry (Subcategory 2a). This Subcategory includes commercial applicators using or supervising pesticides with restricted use to control pests in the regeneration, management, and production of forest stands.

ii. Forest Tree Seed Orchards and Nurseries (Subcategory 2b). This Subcategory includes commercial applicators using or supervising the use of restricted use pesticides to control pests and undesirable plants in the production of forest tree seed, seedlings, and cuttings.

iii. Wood Processing (Subcategory 2c). This Subcategory includes wood or fiber processing firms such as sawmills, veneer plants, plywood plants, wood preservation plants and pulping facilities which use restricted use pesticides in the manufacturing process of wood products.

c. Ornamental and Turf Pest Control (Category 3). This Category includes commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.

d. Seed Treatment (Category 4). This Category includes commercial applicators using or supervising the use of restricted use pesticides on seeds.

e. Aquatic Pest Control (Category 5). This category is subdivided into two subcategories:

i. Subcategory 5a includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in Category 8 (§125.B.2.h);

ii. Subcategory 5b includes commercial applicators using, or supervising the use of, any restricted use pesticide containing Tributyltin (TBT) in paints to be applied to vessel hulls and other marine structures to inhibit the growth of aquatic organisms such as barnacles and algae.

f. Right-of-way Pest Control (Category 6). This Category includes commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.

g. Industrial, Institutional, Structural, and Health Related Pest Control (Category 7). This category includes commercial applicators and nonfee commercial applicators using, or supervising the use of, pesticides with restricted uses in, on, or around food-handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into four subcategories:

i. Subcategory 7a is for pest control operators who are, or will be, certified and licensed by the Structural Pest Control Commission. The commissioner hereby delegates to the Structural Pest Control Commission the authority to examine and certify all persons in this subcategory. The commissioner hereby delegates to the Structural Pest Control Commission the authority to enforce all federal and state laws and regulations as they apply to persons certified under this subcategory.

ii. Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around institutions, motels, hotels, hospitals and like places as the owner or in the employ of the owner and for persons applying or supervising the application of any herbicide, rodenticide, or insecticide for grass and weed control and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing.

iii. Subcategory 7c is for applicators who apply, or supervise the application of, restricted use pesticides on a nonfee basis in, on, or around commercial grain elevators and other grain handling establishments, feed mills, flour mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner. This subcategory is divided into three separate areas of certification:

- (a). (7c1) general pest control;
- (b). (7c2) vertebrate control;
- (c). (7c3) stored grain pest control.

iv. Subcategory 7d is for applicators who apply or supervise the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around structures and grounds of schools that provide

education for classes kindergarten through 12. Pesticide applications for wood destroying insects shall be applied by licensed structural pest control operators. Each 7d certified applicator shall annually train all persons applying pesticides under his/her supervision in the proper handling, storage, use, application and disposal of pesticides.

h. Public Health Pest Control (Category 8). This category is for commercial applicators and state, federal and other government employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance. This category has been subdivided into six subcategories, as follows.

i. Mosquito Control: Applicator (Subcategory 8a). This subcategory is for commercial applicators and government employees who are applicators in mosquito control programs.

ii. Rodent Control (Subcategory 8b). This subcategory is for commercial applicators and government employees who are applicators in rodent control programs.

iii. Community Public Health (Subcategory 8c). This subcategory is for commercial applicators and government employees who are applicators concerned with the control of all arthropods and rodents of public health importance.

iv. Mosquito Control: Program Supervisor (Subcategory 8d). This subcategory is for commercial applicators and government employees who are program supervisors in organized mosquito control programs.

v. Antimicrobial Pest Control (Subcategory 8e). This subcategory is for commercial applicators engaged in antimicrobial pest control using restricted use pesticides.

vi. Sewer Root Control (Subcategory 8f). This subcategory is for commercial applicators and government employees who are applicators engaged in root control in sewers using restricted use pesticides.

i. Regulatory Pest Control (Category 9). This category includes state, federal or other governmental employees using or supervising the use of pesticides with restricted uses in the control of regulated pests.

j. Demonstration and Research Pest Control (Category 10). This category includes individuals who demonstrate to the public the proper use and techniques of application of pesticides with restricted uses, or supervise such demonstrations and persons conducting field research with pesticides, and in doing so, use or supervise the use of pesticides with restricted uses. This category has been subdivided into eight subcategories:

- i. agricultural pest control;
- ii. forest pest control;
- iii. ornamental and turf pest control;
- iv. seed treatment;
- v. aquatic pest control;

- vi. right-of-way pest control;
- vii. industrial, institutional, structural and health related pest control;
- viii. public health pest control.

C. In addition to a determination of competence in a specific category or subcategory, each commercial applicator shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. In order to meet this requirement, each commercial applicator, at the time of initial certification in at least one category, must take a general standards exam.

D. Examinations for certification for commercial applicators will be given upon request of the applicant in Baton Rouge at the Division of Pesticides and Environmental Programs or in any district office of the department during office hours. Request for exams in district offices must be made seven days in advance.

E. Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended, may renew that certification by attending a recertification meeting or training course for that category as designated by the commissioner.

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

G. Each person who is certified as a commercial applicator need not be certified as a private applicator or a pesticide salesperson to apply or supervise the application of any restricted use pesticide as a private applicator, or to sell or supervise the sale of restricted use pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998).

§127. Certification of Pesticide Salespersons

A. Examinations for certification for pesticide salespersons will be given upon request of the applicant in Baton Rouge, at the Division of Pesticides and Environmental Programs, or at any district office of the department. Each person who has been certified as a pesticide salesperson, and whose certification has not been revoked or suspended, may renew that certification by attending a recertification meeting as designated by the commissioner. The commissioner shall issue a certification

card to each pesticide salesperson. This card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form and the proper fee, as prescribed by the commissioner.

B. No pesticide salesperson shall sell or distribute any restricted use pesticide to any person who does not hold a valid certification card.

AUTHORITY NOTE: Promulgated In accordance with R.S. 3:3203, R.S. 3:3244 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:280 (February 1998).

§129. Certification of Agricultural Consultants

A. The agricultural consultant application experience requirements shall be substantiated by a notarized statement from the person who was responsible for the applicant during the time this experience was gained.

B. Each application for an agricultural consultant's examination shall be reviewed by an ad hoc committee appointed by the chairman of the commission. The committee shall consider the application and make its recommendation to the commission.

C. Each application for an agricultural consultant's examination shall be approved by the commission before an examination is administered. Examinations for agricultural consultants shall be administered only in Baton Rouge at the Division of Pesticides and Environmental Programs during office hours and shall be administered only after payment of the proper fee.

D. Certification of Agricultural Consultants

1. Certification in a category authorizes the agricultural consultant to make recommendations in the areas listed for each category.

2. Applicants for certification as agricultural consultants shall elect to be examined in one or more of the following categories:

[NOTE: The classifications in this Subsection reflect national categories as established by EPA.]

a. Control of Insects, Mites, Nematodes or Other Invertebrates (Category 1).

i. Agricultural Entomology (Subcategory 1a). Making recommendations for the control of pests of agronomic crops, especially cotton, rice, soybeans, sugarcane, vegetables, pasture and forage, and grain crops.

ii. Forest Entomology (Subcategory 1b). Making recommendations for the control of forest plants.

iii. Household, Structural and Industrial Entomology (Subcategory 1c). Making recommendations for the control of household pests, structural and industrial pests (such as termites, in stores, warehouse and transportation facilities).

iv. Medical, Veterinary and Public Health Entomology (Subcategory 1d). Making recommendations for control of arthropods affecting man and animals.

v. Orchard and Nut Tree Entomology (Subcategory 1e). Making recommendations for the control of orchard pests.

vi. Ornamental Entomology (Subcategory 1f). Making recommendations for the control of pests of ornamentals, lawns, turf and shade trees.

b. Control of Plant Pathogens (Category 2).

i. Agricultural Plant Pathology (Subcategory 2a). Making recommendations for the control of diseases of agronomic crops, especially sugarcane, cotton, rice, soybeans and home garden plants.

ii. Turf, Ornamental, Shade-tree and Floral Plant Pathology (Subcategory 2b). Making recommendations for the control of diseases of turf, ornamentals, shade-trees and floral plants. Also includes greenhouse and nursery plant disease control.

iii. Forest Pathology (Subcategory 2c). Making recommendations for the control of diseases of trees in plantations, nurseries and managed or unmanaged forests wherein the principal value lies in the production of wood fiber.

iv. Orchard Pathology (Subcategory 2d). Making recommendations for the control of diseases of wood vines and trees wherein the principal value lies in the production of fruits or nuts.

c. Control of Weeds (Category 3).

i. Agricultural Weed Control (Subcategory 3a). Making recommendations for the control of weeds and grasses in field crops, vegetable crops, pastures and rangeland.

ii. Turf, Ornamental and Shade-Tree Weed Control (Subcategory 3b). Making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.

iii. Forest Weed Control (Subcategory 3c). Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control (Subcategory 3d). Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

d. Soil Management (Category 4).

i. Agricultural Field Soil Management (Subcategory 4a). Knowledgeable in symptoms of soil and/or tissue nutrient problems; sampling techniques for soil and/or tissue analysis; interpretation of laboratory results; and recommendations for soil and/or tissue amendments.

ii. Agricultural Soil, Water and Tissue Laboratory Analysis (Subcategory 4b). Knowledge of all diagnostic

procedures pertaining to analysis of soil, water and/or tissue samples.

iii. Agricultural Soil Reclamation (Subcategory 4c). Knowledge of techniques, methods, etc. for restoring or attempting to restore soil productivity as a result of physical and/or chemical disturbance or natural causes such as severe erosion or contaminated soils.

iv. Agricultural Water Management (Subcategory 4d). Knowledge of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998).

Subchapter G. Fees

§131. Fees

A. Fees required under the pesticide statutes and these regulations are as follows:

1. Annual Registration of Pesticides \$300
2. Special Local Need Registration Application Fee \$100
3. Annual License Fee
Resident \$100
Non-Resident \$200
4. Annual Equipment Inspection (each item) \$ 25
5. Annual Field Scout Registration Fee \$ 5
6. Consultant Certification Application Fee \$ 15
7. Certification Fees
Private Applicator? for three years \$ 10
Employees of Local, State and Federal Government in course of public employment ? annual \$ 10
All other Commercial Applicators? annual \$ 15
8. Examination Fees (for each exam? Private Applicator exempt)
In Baton Rouge \$ 10
At Meeting Outside Baton Rouge \$ 15
At District Offices \$ 20
9. Duplicate Licenses and/or Certification Cards same as original
10. Requested Lists and Copies postage + minimum of \$1 or postage + 25 cents/page

B. Fees for licensing shall be paid at the time of application for said license.

C. Fees for registration for field scouts and for equipment inspections shall be paid at the time of application for the appropriate license.

D. Fees for registrations, examinations, and certifications shall be paid at the time the application is submitted.

E. No application shall be processed until all criteria for which the application is made has been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998).

Subchapter H. Licensing Requirements

§133. Owner-Operators

A. Every owner-operator of a pesticide application business must have a current license issued by the commissioner before making any applications of pesticides.

B. No person required by the provisions of R.S. 3:3243 to be licensed by the commissioner shall be licensed as an owner-operator unless such person:

1. has a current commercial applicator certification; or
2. employs a person having a current commercial applicator certification. All persons applying pesticides under an owner-operator license must maintain their commercial applicator certification in current status at all times.

C. No person may apply pesticides under an owner-operator license unless:

1. such person is named on the application for license; or
2. if employed subsequent to issuance of the license or on a temporary basis, the owner-operator has notified the commissioner of such employment prior to the first day of such employment. Initial notification of employment subsequent to issuance of the license may be made by telephone but must be confirmed, in writing, by the owner-operator within three days after the first day of employment.

D. Prior to issuance of the license, the applicant for an owner-operator license shall file proof of financial responsibility with the commissioner, as follows.

1. Ground applicators\$25,000
2. Aerial applicators who do not apply phenoxy herbicides\$25,000
3. Aerial applicators who apply phenoxy herbicides\$50,000

E. Proof of financial responsibility may be made by any of the following means:

1. filing a surety bond in the proper amount, written by a company authorized to do business in Louisiana and conditioned upon the licensee fulfilling his obligations to persons proven to have suffered damages as a result of actions of the owner-operator or any of his employees. Such surety bond shall provide for 90 days written notice to the commissioner prior to cancellation;

2. filing a certificate of insurance, in the form prescribed by the commissioner, in the same amount as required for a surety bond. Such insurance shall be payable to the benefit of persons proven to have suffered damages as a result of the actions of the owner-operator or any of his employees and shall provide for 30 days written notice to the commissioner. Such insurance shall not be applied to damages or injury to agricultural crops, plants, or land being worked upon by the commercial applicator. An owner-operator shall not change the amount of such insurance during the period of the license without the prior written approval of the commissioner;

3. filing a certificate(s) of deposit in the same amount as required for a surety bond. Such certificates of deposit shall be assigned to the commissioner, endorsed, and deposited with the commissioner. Holders of such certificates shall continue to draw all interest thereon. Upon the request of the certificate holder, certificates of deposit may be exchanged at maturity, under procedures acceptable to the commissioner.

4. filing an irrevocable letter of credit, issued by a guarantor and in a form acceptable to the commissioner, which shall be non-cancelable during the term of the license for which the irrevocable letter is offered as security;

5. depositing cash equal to the amount required for the surety bond with the commissioner, which cash shall remain on deposit until replaced by other security acceptable to the commissioner or until expiration, suspension, or revocation of the license.

F. Failure to maintain the required security in full force and effect throughout the license period, as required under §133.D, shall subject a licensee to immediate suspension or revocation of his license.

G Applicants for owner-operator license must satisfactorily complete the application form prescribed by the commissioner and pay the fee specified under §131 prior to issuance of the license.

H. Prior to issuance of the license and/or during the period of licensure, persons applying for owner-operator license under a corporate name must provide proof of compliance with Louisiana's Corporation Laws upon the commissioner's request.

I. Each application for owner-operator license must list all commercial applicators employed on a regular basis when the application is filed. Commercial applicators hired

after the license is issued must be certified to the commissioner as required under §131 hereof.

J. All mechanically powered pesticide application equipment used by any person required by the provisions of R.S. 3:3243 to be licensed by the commissioner must be inspected by the department prior to May 31 following issuance of the license, or within 30 days after issuance of any license dated after January 1. The inspector shall affix a decal to all equipment found to be in compliance with these regulations. It is the responsibility of the licensee to make certain that his equipment is inspected and approved, and a decal is affixed prior to May 31, or, if licensed after January 1, within 30 days after the date of the license. Failure to have decals on pesticide application equipment within the time prescribed under this rule shall subject a licensee to immediate suspension or revocation of his license.

K. Owner-operator licenses shall be valid until December 31 following date of issue and must be renewed annually by filing the application form prescribed by the commissioner, together with the fee specified in §129.C, prior to December 31. A late fee of \$50 shall be imposed on any applicant filing application for renewal of an owner-operator license after December 31.

L. Licensed owner-operators who apply any pesticides which, upon disposal, are classified as hazardous wastes must comply with all rules adopted by the commissioner to regulate the handling of such pesticides prior to renewal of the license. If licensed after January 1, the owner-operator must comply with all rules regulating the handling of pesticides, which upon disposal are classified as hazardous wastes, within 30 days after issuance of the license.

M. Any person whose license or required certification has been suspended or revoked may be required to appear before the Advisory Commission on Pesticides prior to issuance of a new license or certification. No owner-operator license or required certification shall be reinstated after suspension or revocation unless the applicant for reinstatement has complied fully with all requirements of this rule.

N. The commissioner may deny an owner-operator license or commercial applicator certification to any person who:

1. fails to demonstrate a knowledge of pesticides necessary for the safe and efficacious use thereof;
2. fails or has previously failed to comply with any requirement of these regulations and/or the pesticides statutes;
3. has previously been adjudged, in a properly conducted adjudication procedure, to have violated any provisions of the pesticide statutes and/or these regulations; and/or
4. has failed to apply for and receive a decal for every item of mechanically powered pesticide application equipment used in the operation of the business.

O. Grass-Cutter Exemption. A person, when applying a general use pesticide to the lawn or ornamental plants of an individual residential property owner using pesticides and pesticide application equipment owned and supplied by the property owner, is exempt from licensing provided the person does not advertise for or solicit herbicide (grass or weed control) application business and does not hold oneself out to the public as being engaged in herbicide (grass or weed control) application. The person shall not supply his/her own pesticide application equipment, use pesticide applying power equipment, or use any equipment other than a hand held container when applying the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission of Pesticides, LR 9:169 (April 1983), amended LR 10:194 (March 1984), LR 12:87 (February 1986), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:194 (February 1997).

§135. Pesticide Dealers Selling Restricted Use Pesticides

A. Pesticide dealers must be licensed by the commissioner prior to making any sale of restricted use pesticides.

B. No person shall be licensed as a pesticide dealer unless such person:

1. holds a current pesticide salesperson certification;
2. employs at least one person who holds a current pesticide salesperson certification; or
3. holds a current commercial applicator certification.

C. No person shall sell restricted use pesticides unless:

1. his/her name is listed on the application for pesticide dealer license; or
2. if employed after issuance of the license, the licensed pesticide dealer has notified the commissioner of such employment, in writing, within 30 days after the first day of such employment. Such subsequent notification shall contain the name, address, and certificate number of certified pesticide salespersons who are employed after the license is issued.

D. No licensed pesticide dealer may sell, offer for sale, or hold for distribution any pesticide which has not been registered with the department as required by R.S. 3:3221.

E. Applicants for pesticide dealer license shall satisfactorily complete the application form prescribed by the commissioner and pay the fee required under §131 hereof prior to issuance of the license.

F. Each application for pesticide dealer license shall contain the name, address, and certificate number of all certified pesticide salespersons.

G. Within 30 days after the termination of any certified pesticide salesperson listed on the license application form and/or certified to the commissioner after issuance of the

pesticide dealer license, the licensee must notify the commissioner, in writing, of such termination.

H. Whenever such termination results in no certified pesticide salesperson at a licensed pesticide dealer's business, the pesticide dealer license shall be revoked 30 days after such termination, unless the licensee employs another certified pesticide salesperson within 30 days after termination of the original employee. In such event, the licensee may request the administration of an examination for pesticide salesperson certification on a priority basis, and the examination shall be immediately administered.

I. Pesticide dealer licenses shall be valid until December 31 following date of issue and must be annually renewed by filing the application form prescribed by the commissioner, together with the fee required under §131, prior to December 31. A late fee of \$50 shall be imposed on any applicant filing application for renewal of a pesticide dealer license after December 31.

J. Any person whose license or required certification has been suspended or revoked may be required to appear before the Advisory Commission on Pesticides prior to issuance of a new license or certification. No pesticide dealer license shall be reinstated after suspension or revocation unless the applicant for reinstatement has complied fully with all requirements of this rule.

K. The commissioner may deny a pesticide dealer license or pesticide salesperson certification to any person who:

1. fails to demonstrate a knowledge of pesticides necessary for the safe and efficacious use thereof;
2. fails or has previously failed to comply with any requirement of these regulations and/or the pesticides statutes; and/or
3. has previously been adjudged, in a properly conducted adjudication procedure, to have violated any provisions of the pesticides statutes and/or these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3245.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:195 (March 1984).

§137. Pesticides Dealers; Restrictions on Cash Sales

A. Pesticide dealers shall not sell the following restricted use pesticides for currency without first visually inspecting and confirming that the person seeking to purchase said pesticide holds the proper certification:

1. methyl parathion

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3252 (A)(8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 19:609 (May 1993).

§139. Agricultural Consultants

A. No person shall be licensed as an agricultural consultant unless such person:

1. is currently certified as an agricultural consultant; or
2. employs a person currently certified as an agricultural consultant.

B. No person shall make pesticide recommendations for a fee unless:

1. his/her name is listed on the application for agricultural consultant license; or
2. if employed after issuance of the agricultural consultant license, the licensee has notified the commissioner in writing within 30 days after the first day of such employment. Notification of employment after the license is issued shall include the name, address, and certificate number of agricultural consultants employed by the licensee.

C. All applicants for agricultural consultant licenses shall complete the application form prescribed by the commissioner and pay the fee required under §131 hereof prior to issuance of the license.

D. Each application for agricultural consultant license shall include the name, address, and certificate number of all certified agricultural consultants and the name and address of all field scouts employed by the applicant when the application for license is filed.

E. Each licensed agricultural consultant shall register every field scout employed under his/her license with the commissioner within 30 days after the first day of the scout's employment. The registration shall remain valid during the scout's employment by the agricultural consultant applying for field scout registration, without renewal, but shall be canceled upon termination of such employment. Each agricultural consultant shall notify the commissioner, in writing, within 30 days after termination of any field scout.

F. Each field scout registered by a licensed agricultural consultant shall be issued a registration card. The field scout shall carry the registration card on his/her person when engaged in field counts and shall display the registration card upon reasonable request.

G. Agricultural consultant licenses shall be valid until December 31 following date of issue and shall be renewed annually by filing the application form prescribed by the commissioner, together with the fee required under §131, prior to December 31 of each year. A late fee of \$50 shall be imposed on any applicant filing application for renewal of an agricultural consultant license after December 31.

H. Any person whose license or required certification has been suspended or revoked may be required to appear before the Advisory Commission on Pesticides prior to issuance of a new license or certification. No agricultural consultant license shall be reinstated after suspension or

revocation unless the applicant for reinstatement has complied fully with all requirements of this rule.

I. The commissioner may deny an agricultural consultant license or certification to any person who:

1. fails to demonstrate a knowledge of pesticides necessary for the safe and efficacious use thereof;
2. fails or has previously failed to comply with any requirement of these regulations and/or the pesticides statutes; and/or
3. has previously been adjudged, in a properly conducted adjudication procedure, to have violated any provisions of the pesticides statutes and/or these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3246

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:195 (March 1984).

Subchapter I. Regulations Governing Application of Pesticides

§141. General Requirements

A. No person shall apply pesticides as a commercial applicator unless such person is:

1. licensed as required under §133 hereof;
2. employed by a person licensed as required by §133 hereof;
3. making ground applications of pesticides under the direct supervision of a person certified as a commercial applicator; or
4. certified in demonstration and research.

B. No person shall apply any pesticide which is not registered with the department and the EPA, provided that this restriction shall not apply to:

1. activities conducted by persons certified in demonstration and research; and
2. activities conducted under an approved experimental use permit.

C. No person who is required under the provisions of R.S. 3:3243 to be licensed by the commissioner shall apply pesticides with mechanically powered pesticide application equipment which does not bear a current decal affixed by the commissioner, except as provided under §133.J.

D. No person shall apply any ester compound of phenoxy herbicide containing an aliphatic alcohol radical with less than six carbon atoms at any location within Louisiana.

E. All pesticides shall be applied in accordance with label and labeling requirements.

F. All persons who apply pesticides aerially must be certified as commercial applicators.

G. No person who is required under the provisions of R.S. 3:3243 to be licensed by the commissioner may dispose of any unused portions of pesticides and/or rinsate of pesticides at any location other than a site approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:196 (March 1984).

§143. Restrictions on Application of Certain Pesticides

A. The commissioner hereby declares that, in addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in §143.B are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of one quart or less or two pounds dry weight or less.

B. The following pesticides may not be applied by commercial applicators during the times set forth in this rule in the areas listed in §143.C, D and E hereof.

Chemical Name	Common Name
1. 4-amino-3, 5,6-trichloro-picolinic acid	Picloram
2. Arsenic trioxide	---
3. 3-chlorophenoxy-alpha-propionamide	3-CPA
4. 4-chlorophenoxy acetic acid	4-CPA
5. 2,4-dichlorophenoxy acetic acid	2,4-D
6. 4-(2,4-dichlorophenoxy) butyric	2,4-DB
7. 2-methoxy-3, 6-dichlorobenzoic acid	Dicamba
8. 2-methyl-4-chlorophenoxyacetic acid	2, 4-MCPA
9. 4-(2 methyl-4-chlorophenoxy) butyric acid	---
10. 2-(2 methyl-4-chlorophenoxy)	2-MCPP
11. Arsenic acid	Arsenic
12. Sodium arsenite	---
13. 2-(2,4,5-trichlorophenoxy) ethyl 2,2 dichloropropionate	---
14. Tris (2,4-dichlorophenoxy ethyl) phosphite	---
15. A mixture of tri-, tetra-, and polychlorobenzoic acid	---

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C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

- | | |
|----------------------------------|---|
| 1. Avoyelles | 14. Madison |
| 2. Bossier | 15. Morehouse |
| 3. Caddo | 16. Natchitoches |
| 4. Caldwell | 17. Ouachita |
| 5. Catahoula | 18. Pointe Coupee, Ward 1, 2, 3, 4 and 10 |
| 6. Claiborne, Ward 4 | 19. Rapides |
| 7. Concordia | 20. Red River |
| 8. DeSoto, Ward 7 | 21. Richland |
| 9. East Carroll | 22. St. Landry, Wards 1, 4, 5, and 6 |
| 10. Evangeline, Wards 1, 3 and 5 | 23. Tensas |
| 11. Franklin | 24. Union |
| 12. Grant | 25. West Carroll |
| 13. LaSalle | 26. Winn, Ward 7 |

D. The pesticides listed in §143.B shall not be applied by commercial applicators between March 1 and June 15 in the area between the Mississippi River and Highway 61 in the Parishes of St. James and St. John the Baptist.

E. The pesticides listed in §143.B shall not be applied by commercial applicators in the Parish of Plaquemines.

F. In any application of the pesticides listed in §143.B in any of the areas listed in §143.C, D and E, the wind speed at the time of application shall determine the distance which must separate the center of the swath from the nearest inhabited structure and/or susceptible crop, as follows:

Minimum Distance		
Wind Speed	Aerial Equipment	Ground Equipment
0 - 3 mph	1/2 mile downwind 1/2 mile crosswind 50 feet upwind	1/2 mile downwind 1/2 mile downwind 20 feet upwind
3 - 6 mph	1 mile downwind 1/2 mile crosswind 50 feet upwind	1/4 mile downwind 1/2 mile crosswind 5 feet upwind
6 - 10 mph	2 miles downwind 1/2 mile crosswind 50 feet upwind	1/2 mile downwind 1/2 mile crosswind 5 feet upwind
Above 10 mph	Prohibited	Prohibited

[NOTE: *Crosswind* means 90 degrees (+ or - 10 degrees from the flight path or the direction of the application.)]

G. No commercial applicator may make application of the following pesticides when the wind speed is at 10 miles per hour or above:

- | | |
|--|----------|
| 1. 3 ¹ 4 ¹ -Dichloropropionanilide | Propanil |
| 2. 1:1-Dimethyl-4, 4 ¹ -Bipyridinium (cation) | Paraquat |

H. Whenever an inhabited structure at the site of application is located at a distance less than the distance between the swath of the application and an inhabited structure shall not apply when the owner, renter, or lessee occupying the structure grants written authorization for the pesticide application.

I. Hand injections of pesticides are exempt from the requirements of §143.C.

J. If label and labeling requirements relative to wind speed are more restrictive for the pesticide being applied than the restrictions set forth in §143.F, label and labeling requirements shall determine the minimum distance from inhabited structures and susceptible crops.

K. Commercial aerial pesticide applicators who apply mixtures containing 1:1-Dimethyl-4, 4¹-Bipyridinium (cation) dichloride, Isopropylamine salt of glyphosate, Sulfosate Trimethylsulfoniumcarboxymethylaminomethylphosphonate, 4-(2, 4-Dichlorophenoxy) butyric acid, and 2,4-Dichlorophenoxyacetic acid (commonly known as Gramoxone, Roundup, Touchdown, 2, 4 DB and 2, 4D, respectively) must register with the department once yearly on department approved forms prior to making any applications of these chemicals. Effective January 1, 1993, N-(3,4-dichlorophenyl) propionamide (commonly known as Propanil) must be registered under the provisions of this Subsection.

L. Commercial aerial pesticide applicators applying any concentrations of the agricultural chemicals shall not apply these chemicals from a height of greater than 18 feet above the target field crops.

M. No person shall apply, use, or incorporate the use of any herbicide, as defined in §103, including but not limited to, those registered with and/or approved by the U.S. Environmental Protection Agency or the department, for the management, control, eradication or maintenance of weeds, grass, trees, shrubs, foliage, vegetation or other natural growth in any parish right-of-way, ditch, servitude, drainage area, roadside, road shoulder, green area, buffer zone, waterway, neutral ground or median in the unincorporated areas of St. Tammany Parish.

- Definitions as used in this Subsection M:

Ditch? natural or dedicated area which provides for the containment or flow of water from rain or adjacent drainage areas or waterways such as streams, creeks, ponds, lakes or rivers.

Drainage Area? an area maintained for the purpose of channeling or preventing accumulation of water from surrounding land.

Easement? a designated right to use the property of another for a specific purpose, i.e., drainage, utility easement.

Median/Neutral Ground? the area dividing or separating a roadway and not used for right of passage.

Right-of-Way? any public way, street, road, alley, easement, servitude or access, which was dedicated to or acquired by the St. Tammany Parish to provide means of access to abutting properties; whether paved, improved or unimproved, including those areas dedicated for proposed or future uses.

Roadside/Road Shoulder? natural or dedicated areas which are parallel, contiguous to, abut, adjoin, border, edge, connect or approach any public right-of-way, road, street or highway.

Servitude? a right-of-way through or across property belonging to another.

2. Exemptions are hand held manual pump sprayers up to a maximum 3-gallon capacity.

N. Reserved.

O. Reserved.

P. Regulations Governing Aerial Applications of 2,4-D or Products Containing 2,4-D

1. Registration Requirements

a. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

b. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must have in his/her possession and shall be a part of the record keeping requirements, a written permit from the Division of Pesticides and Environmental Programs (DPEP).

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2,4-D or products containing 2,4-D to their crops when the applicators,

conforming to the Louisiana Pesticide Laws and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use 2,4-D or products containing 2,4-D on their crops, subject to appeal to the Advisory Commission on Pesticides.

3. 2,4-D or products containing 2,4-D Application Restriction.

Aerial appl

4. Procedures for Permitting Applications of 2,4-D or Products Containing 2,4-D

a. Prior to any application of 2,4-D or products containing 2,4-D, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for two days from the date issued. Growers or aerial applicator shall obtain approval from the DPEP.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

- i. weather patterns and predictions;
- ii. wind speed and direction;
- iii. propensity for drift;
- iv. distance to susceptible crops
- v. quantity of acreage to be treated;
- vi. extent and presence of vegetation in the buffer zone;
- vii. any other relevant data.

5. Monitoring of 2,4-D or Products Containing 2,4-D

a. Growers or aerial owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all request for aerial applications of 2,4-D or products containing 2,4-D.

b. Aerial owner/operators shall maintain a record of 2,4-D or products containing 2,4-D applications.

6. Determination of Appropriate Action

a. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- i. stop orders for use, sales, or application;
- ii. label changes;
- iii. remedial or protective orders;

- iv. any other relevant remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (June 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001).

§145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, shall adhere to the following standards for fixed wing aircraft, regarding boom configurations, nozzle angles, and volume of pesticides per acre.

1. The effective spray boom length shall not exceed 75 percent of the length of the wing (wing tip to wing tip) on which the boom is attached.

2. Except as follows, all spray nozzles shall be oriented to discharge straight back toward the rear of the aircraft. When applying insecticides by aircraft, with a maximum flying speed of less than 120 miles per hour, the applicator shall have the option to position nozzles at an angle of 45 degrees down from straight back or 45 degrees back from straight down.

3. The spray boom pressure shall not exceed a maximum of 40 pounds per square inch (40 PSI).

4. When disc and core type nozzles are used for herbicide, desiccant, or defoliant applications, a number 46 or larger core must be used.

5. Unless further restricted by other regulations or labeling, the chemicals listed in §143.K above shall be applied in a minimum of five gallons of total spray mix per acre. With the following exceptions:

a. insecticides applied in the Boll Weevil Eradication Program, which shall be applied in accordance with their labels, all other agriculture pesticides, unless further restricted by other regulations or labeling, shall be applied in a minimum of one gallon of total spray mix per acre;

b. malathion insecticide applied with the following conditions to control boll weevil in cotton

i. The commissioner hereby declares that prior to making any aerial application of ULV Malathion to cotton, the aerial owner/operator must

first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 miles per hour.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position

the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Differential correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an

approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure

feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to May 20.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:1964 (September 2000).

§147. Waiver of Restrictions

A. No commercial applicator shall apply any of the pesticides listed in §143.B in the parishes and during the periods specified in §143.C, D and E without written authorization from the commissioner prior to such application, except as described in §143.P.

B. The commissioner may waive the time restrictions on application of pesticides listed in §143.B upon written request, as follows.

1. Any commercial applicator desiring a waiver of any restriction contained in §143 shall apply to the commissioner at least 24 hours prior to the date scheduled for application of the pesticide.

2. The application for waiver shall be submitted on a form provided by the commissioner and shall contain the following information:

a. the name and address of the person requesting the application;

b. the name of the applicator who will actually make the application;

c. the name of the owner-operator, if different from the applicator making the application;

d. the location where the application will be made, including the crop and name and address of the landowner;

e. the proposed date and hour when the application is scheduled; and

f. any other information pertinent to the specific waiver application which may be required by the commissioner.

C. Both the commercial applicator and the person for whom the pesticide application will be made must sign and date the waiver application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:197 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 27:279 (March 2001).

§149. Special Restrictions on Commercial Aerial Pesticide Applications; Applications in the Rain and Buffer Zones

A. All aerial pesticide applicators are prohibited from making an application of any pesticide while it is raining. This prohibition shall not apply to a drizzle of rain so light as to not cause puddling or run-off water from the field.

B. Unless further restricted by other regulations or labeling, commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, are prohibited from making an application of any pesticide within 100 feet from the edge of the swath to any inhabited structure, including but not limited to inhabited dwellings, hospitals, nursing homes and places of business. No aerial applicator, with the single exception of aerial mosquito pest control applicators, shall apply pesticides within 1000 feet of any school grounds during normal school hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992).

§151. Aerial Application of Pesticides to Rights of Way for Control of Woody Vegetation

A. This rule applies only in parishes whose governing bodies have appeared in public hearing before the Advisory Commission on Pesticides and thereafter secured the approval of the commissioner for enforcement of this rule.

B. The commissioner will notify each owner-operator who is certified in right-of-way pest control, in writing, whenever a parish governing authority is approved to enforce the provisions of this rule.

C. Each applicator intending to make an aerial application of pesticides to control woody vegetation on public utility rights-of-way in such parishes must notify the Office of Pesticides and Environmental Programs, in writing, at least 15 days prior to the anticipated date of the application. That notice shall contain:

1. anticipated dates and times of application;
2. description of the area(s) where the application will be made;
3. a telephone number and address of the applicator's office to which citizens can report sensitive areas to the applicator prior to the scheduled application; and
4. the pesticides to be applied.

D. Within five days after receipt of notice from an applicator, the department shall:

1. notify the governing authority of any parish which has secured the approval of the commissioner for enforcement of this rule, such notice to include all information required under §151.C; and
2. issue a news release to all media within such parish, which news release shall contain all information required under §151.C.

E. The governing authority may make additional publications of the notice by any means considered appropriate by the governing authority. The governing authority shall notify the Office of Pesticides and Environmental Programs of the media utilized for such additional public notice concerning the scheduled application.

F. No commercial applicator may make aerial application of pesticides to control woody vegetation on public utility rights-of-way in any manner inconsistent with label and labeling requirements for the pesticide applied.

G. Before pesticides are applied to rights-of-way for control of woody vegetation, the applicator shall fly a reconnaissance flight over the right-of-way to be sprayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:197 (March 1984).

§153. Special Restrictions on Pesticide Applications in Schools

A. Any person who applies or supervises the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around school structures and grounds shall be a certified commercial applicator or under the supervision of a certified commercial applicator.

B. School systems with 10 or more schools shall employ a minimum of two certified commercial applicators. School systems with less than 10 schools shall employ a minimum of one certified commercial applicator.

C. The governing authority (including but not limited to superintendents, headmasters, school boards, board of directors, chief executive officer, or principals) shall prepare and submit in writing, for each school under its authority, to the director, an annual integrated pest management (IPM) plan for pest control for grass and weed control and rodent and general pest control (roaches, wasps, and ants) in, on, or around school structures and grounds. The IPM plan shall include all pest control methods employed, including pesticide and non-pesticide methods and strongly recommends the least toxic methods of control. The first IPM plan shall be submitted prior to any application of pesticides beginning March 1, 1995 and shall be submitted on an annual year of August 1 through July 31. The plan shall be available for review, upon request, by the commissioner and the general public, during normal school hours, at each school, in the business office. The annual IPM plan shall include, but not be limited to the following:

1. school name and mailing address, physical address, telephone number and contact person;
2. name and license or place of business number of company(s) and certification numbers of applicators, if contracted;
3. name and certification number of certified commercial applicator(s) of school system;
4. brand name and EPA registration number of all pesticides to be used;
5. for each pesticide to be used a list of the following:
 - a. pest to be controlled;
 - b. type of application to be used;
 - c. location of application;

d. restricted use pesticide or general use pesticide.

6. proposed location and date for non-certified applicator training;

7. other methods of pest control.

D. Any deviation from the integrated pest control management plan submitted shall be submitted in writing to the department, Director, 24 hours prior to any application.

E. Records of pesticide applications shall be maintained according to §167 and records of inspections, identification, monitoring, evaluations, and pesticide applications for grass and weed control and general pest control, shall be maintained by the school and submitted with the annual integrated pest management plan to the department annually on a form prescribed by the department in accordance with §167.

F. No pesticides shall be applied for general pest control inside school buildings when students are present or expected to be present for normal academic instruction or extracurricular activity for at least eight hours after application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 21:928 (September 1995), amended LR 23:194 (February 1997).

§155. Damage Complaints

A. Persons filing damage complaints shall, at the same time the complaint is filed, execute a consent form granting access to the property alleged to have been damaged.

B. Each person filing a damage complaint must notify the commissioner at least 24 hours before the start of harvest of the property alleged to have been damaged.

C. Whenever any person filing a damage complaint fails to provide the required prior notice before the start of harvest, no final production assessment shall be made by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3255.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:197 (March 1984).

Subchapter J. Bulk Pesticides

§157. Bulk Pesticides

A. Definitions

Bulk Pesticide? any registered pesticide which is transported or held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds dry weight.

Bulk Repackaging? the transfer of bulk quantities of a registered pesticide from one bulk container to another bulk container in an unaltered state in preparation for sale to another person.

B. No person shall install or operate facilities engaged in bulk distribution of restricted use pesticides to owner-operators or private applicators in this state unless such person has made written notification of such activity by completing the form prescribed by the commissioner. In addition, manufacturers are prohibited from selling bulk pesticides to dealers that do not have proper facilities.

C. Storage of Bulk Pesticides

1. Only products registered with the department may be stored in bulk.

2. Bulk pesticide storage facilities shall be located a suitable distance from adjacent buildings, property lines, or public access roads.

3. Bulk pesticides must be stored on a foundation which meets the following requirements:

a. must be solidly constructed of a material sufficiently impervious to contain leaks, spills, and accumulated pesticides and/or rinsate of pesticides;

b. must be free of leaks;

c. must be sloped to facilitate clean-up of inadvertent spills; and

d. must be constructed with a rim of sufficient height to contain runoff from clean-up activities of inadvertent spills and prevent run on of flood waters.

4. Containers and accessory equipment used for storage and handling of bulk pesticides shall be of materials and construction compatible with the pesticide stored and the conditions of storage.

5. Permanent liquid bulk storage container installations shall be constructed with a secondary means of containment.

a. Secondary containment shall be constructed of materials of sufficient thickness, density and composition to contain any discharged material.

b. Secondary containment for outside storage must provide a minimum of 110 percent of the capacity of the largest single container. Suitable

measures shall be used for containment of tanks stored under roof or within other enclosures.

c. All rinsate and/or minor spillage in a secondary containment shall be disposed of as provided by the product's label and labeling requirements when feasible or deposited in a closed containment system as herein required. If the pesticide is classified, upon disposal, as a hazardous waste, such rinsate/spillage shall be disposed of in a permitted hazardous waste facility.

6. Bulk storage containers must be equipped with locking devices and other appropriate measures such as lighting or security fencing to discourage ready access by unauthorized persons to the bulk container storage area when unattended.

7. Bulk storage containers shall be equipped with suitable sample points; official samples drawn from such containers shall be accepted without question as being representative of the contents of such containers.

8. The registered product label shall be affixed in a prominent location on the outside of all bulk storage containers.

9. Underground storage of bulk pesticides is prohibited.

D. Transportation of Bulk Pesticides

1. Containers used to transport pesticides must meet all applicable standards of the Department of Transportation and Development.

2. Containers must be secured to prevent significant movement during transportation.

3. A label for the registered pesticide product must accompany each shipment of the pesticide.

E. Loading and Handling of Bulk Pesticides

1. Bulk pesticides shall be handled and/or loaded so as to prevent damage to persons, livestock, crops, and/or environment.

2. Toxicity and volatility of bulk pesticides shall be considered in loading practices.

3. Prior to refilling bulk storage containers, the containers must be thoroughly rinsed, under procedures equivalent to triple-rinsing procedures, except when a container is refilled with the same pesticide.

F. Distribution of Bulk Pesticides

1. Transfer of a registered bulk pesticide from one size container to another for sale or delivery in bulk quantities may be made, provided:

a. the person making such transfer has filed the bulk pesticides notification form prescribed by the commissioner; and

b. there is no change in the pesticide formulation, the product label (except addition of the required EPA establishment number and net contents statement), or the party responsible for maintaining the integrity of the product.

2. Bulk pesticides may be repackaged for sale only in containers which meet the requirements of this rule.

3. Scales or meters used for sales of bulk pesticides shall meet the specifications of the department's Weights and Measures Division; appropriate measures shall be taken to prevent contamination of the product during transfer with scales or meters.

G Notification of Spills. If any spill of bulk pesticides occurs, immediate telephone notification must be made to the director. The telephone notification must be confirmed in writing within three days after the spill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:197 (March 1984).

Subchapter K. Mechanically Powered Pesticide Application Equipment

§159. Commercial Applicators

A. The following systems or controls must be present and in good operating order prior to the issuance of a decal.

1. Aerial and Ground Application Equipment

a. The hopper must be free of leaks and in good working order; and

b. all equipment must include a properly functioning pressure gauge(s).

2. Aerial Application Equipment

a. The booms, nozzles, and hose fittings must be free of leaks;

b. the emergency dump, if present on an aircraft, must be free of leaks when in the closed position;

c. there must be a main fluid filter between the main tank and the boom system; and

d. the distance between the outermost nozzles on the boom of a fixed-wing aircraft shall not be more than 75 percent of the wing span of the aircraft. The boom on the rotary-wing aircraft may not exceed the rotor diameter. The commissioner may waive these requirements for specific aircraft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998).

Subchapter L. Monitoring of Commercial Applicator Operations

§161. Monitoring of Commercial Applicator Operations

A. Duly authorized representatives of the commissioner may inspect all pesticide applicator operations semi-annually, with or without prior notification, provided that the commissioner may monitor such sites on a more frequent basis whenever, in his sole discretion, he determines that there is a need for more frequent monitoring of any specific commercial applicator.

B. In such monitoring, the authorized representative of the commissioner shall:

1. inspect the physical surroundings of the site to determine that all requirements of these regulations have been complied with;

2. inspect the records required under §§167, 169 and 171;

3. take samples, as determined by the commissioner, at any of the following locations:

a. any site where an application of pesticides has been made by the applicator;

b. any base storage;

c. any containment tank for pesticides which, upon disposal, are classified as hazardous wastes;

d. any surface impoundment;

e. any wash pad;

f. any soils or water, flowing or still, at any location on or adjacent to the base operation; or

g. any application equipment (i.e., hopper tanks and connections, mixing tank, etc.).

C. Any samples taken as provided above shall be marked for identification under chain of custody procedures and shall be analyzed in accordance with procedures approved by the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency.

D. The owner-operator from whose operations any sample is taken shall be provided with a copy of the analysis results within 30 days after the analysis is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3201.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March 1984).

Subchapter M. Other Access Requirements

§163. Pesticide Dealers and Pesticide Salespersons

A. The commissioner, upon reasonable request, shall be permitted access to any premises where restricted use pesticides are sold, offered for sale, or held for distribution.

B. The commissioner may examine the records required under §169 and may take samples of any restricted use pesticides found on the premises.

C. Such samples shall be marked for identification by accepted chain of custody requirements and shall be analyzed in accordance with procedures approved by the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency.

D. The owner of any restricted use pesticide from which such sample is taken shall be provided with a copy of the analysis results within 30 days after the analysis is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3245.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March 1984).

§165. Agricultural Consultants

A. The commissioner, upon reasonable request, shall be permitted access to the records required under §171.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3246.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984).

Subchapter N. Record Keeping Requirements

§167. Owner-Operators, Non-Fee Commercial Applicators, and Commercial Applicators

A. Any person applying pesticides for a fee and commercial applicators described in §125, with the single exception of applicators listed in §125.B.2 category 7, shall accurately maintain, for a period of two years, records of pesticide applications on a record keeping form or record keeping format approved by the director. Records described herein must be maintained, within three days of the application, at the physical address of the employer or the physical address on the owner/operator license. A copy of these records shall be provided to any employee of department upon request at a reasonable time during normal working hours. The following information shall be included on that form:

1. owner/operator name, address, and license number;

2. certified applicator, name, address, and certification number;

3. customer name and address;

4. product/brand name;

5. EPA registration number;

6. restricted/general use pesticide;
7. application date;
8. crop/type of application;
9. location of application;
10. size of area treated (acres, square feet, or minutes of spraying);
11. rate of application;
12. total amount of product (concentrate) applied;
13. applicator;
14. certification number of applicator (if applicable).

B. Non-fee commercial applicators as described in §125.B.2, category 7, shall accurately maintain, for a period of two years, records of applications of all herbicides, insecticides, rodenticide, and fumigants on the appropriate record keeping form as described in LAC 7:XXV.14113 and §167.A and approved by the director. Records described herein shall be maintained, within seven days of the application, at the physical address of the employer. A copy of these records shall be provided to any employee of the department upon request, at a reasonable time during normal working hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:929 (September 1995).

§169. Pesticide Dealers and Salespersons

A. The requirements of this rule apply to sales of:

1. pesticides classified as restricted use pesticides by the commissioner or the EPA;
2. pesticides which, upon disposal, are classified as hazardous wastes; and
3. pesticides listed in §143.B, except when sales of pesticides listed in §143.B are:
 - a. sold in concentrations of two percent or less; or
 - b. formulated with fertilizers for use by homeowners.

B. Licensed pesticide dealers, certified pesticide salespersons, and/or persons under the direct supervision of a certified dealer or salesperson shall maintain the following records on a current basis for a period of two years:

1. the name and amount of the pesticide purchased and/or sold;
2. the date of all purchase and/or sale transactions;
3. the name, address, and certification number of the purchaser, including the purchaser's name, address, and certification number in all purchases made for cash;
4. the name of the person handling any sales of pesticides covered by this rule.

C. Whenever any pesticides which, upon disposal, are classified as hazardous wastes are delivered to a purchaser, the records required under this rule shall include the name of the purchaser, amount of pesticide purchased, date of delivery, and location to which delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3245.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984).

§171. Agricultural Consultants

A. Every recommendation made by an agricultural consultant shall be in duplicate original and shall be dated and signed by the agricultural consultant.

B. Each recommendation made by an agricultural consultant shall include the following:

1. the name and address of person purchasing the consultant's services;
2. the location, including the crop, for which the recommendation is made;
3. the pesticide or pesticides recommended;
4. the recommended rate of application;
5. a brief statement as to the reasons for the recommendation; and
6. the date of when the recommendation is given.

C. The pesticide recommendation shall be given to the purchaser of the consultant services or his designee and a copy shall be maintained in the records of the agricultural consultant.

D. The commissioner, or his duly authorized representative, shall be permitted access to such records upon reasonable request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3246.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984).

Subchapter O. Penalties

§173. Penalties for Violation of Pesticide Statutes and These Regulations

A. The commissioner may suspend or revoke any license issued under the provisions of R.S. 3:3241-3257 and/or may assess a civil penalty not to exceed \$5,000 for violation of any provision of R.S. 3:3201 through 3:3257 or any violation of any regulation enacted under the authority of said statutes.

B. Each separate day on which any violation occurs may be considered as a separate violation.

C. No penalty may be assessed by the commissioner prior to the holding of an adjudicatory hearing before the Advisory Commission on Pesticides. Such adjudicatory hearing shall be conducted in accordance with the requirements of the Administrative Procedure Act; any person alleged to have violated any provision of the pesticide statutes or these regulations shall be accorded all of the rights and privileges guaranteed under said act.

D. The Advisory Commission on Pesticides shall recommend penalties to be imposed as a result of findings of fact and/or conclusions of law that a violation occurred.

E. Whenever the commissioner fails to accept the recommendations of the Advisory Commission on Pesticides for the imposition of penalties following an adjudicatory proceeding, the commissioner shall notify the commission, in writing, of the reasons for his failure to accept the commission's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3252.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1981).

Subchapter P. General Requirements for Pesticide Waste

§175. Waste Water Classified as Hazardous Waste

A. Waste water which, upon disposal, is classified as a hazardous waste.

1. On or before December 31, 1984, all commercial applicators applying pesticides which, upon disposal, are classified as a hazardous waste must implement a containment system for reuse or

apply the waste immediately to the site of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:397 (May 1984).

Subchapter Q. Handling Spills by Commercial Applicators

§177. Handling Spills by Commercial Applicators

A. All uncontained spills of more than one gallon liquid or four pounds dry weight must be reported to the director of Pesticides and Environmental Programs within 24 hours by telephone and by written notice within three days.

B. Commercial applicators are responsible for the cost of cleanups resulting from pesticide spills in their operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:397 (May 1981).

Subchapter R. Handling of Pesticide Containers

§179. Procedures Governing Handling of Pesticide Containers by Commercial Applicators (Except Bulk Pesticide Containers)

A. Storage Areas for Full or Partially Full Pesticide Containers

1. Pesticide containers must be stored in a secure, locked enclosure.
2. Pesticide containers must be free of leaks.
3. The storage area must be maintained in good condition, without unnecessary debris.

B. Empty containers must be stored in a secured area. Empty containers may be kept for no more than 90 days after the end of the spraying season.

C. Metal, Glass and Plastic Containers

1. All metal, glass and plastic containers must be triple-rinsed immediately after the pesticide is removed by the following, or equivalent procedures:

- a. Using a solvent capable of removing the pesticide, fill each container with solvent equal to

approximately 10 percent of the volume of pesticides originally contained in the container.

b. Agitate the solvent thoroughly on all interior surfaces' of the container. Agitation may be accomplished by use of agitation equipment approved by the department or by manual agitation of the solvent.

c. Repeat the above procedure three times.

d. If the rinsate containing the solvent can be used again in subsequent applications of the pesticide without reducing the effectiveness of the pesticide, place the rinsate in the containment tank specified for that pesticide. If the rinsate is not classified as a hazardous waste upon disposal, it may be placed in an approved surface impoundment.

2. Upon completion of the above triple-rinsing procedures, containers may be disposed of as follows:

a. by disposal in any permitted solid waste facility (sanitary landfill), provided that, prior to disposal in a solid waste facility, the pesticide applicator must pierce all metal and plastic containers in both ends;

b. by prior agreement, by return (for credit or otherwise) to the pesticide sales agent or the pesticide manufacturer;

c. by resale to a third party for recycling or reconditioning; or

d. by return to the person contracting for the pesticide application.

D. Paper and Plastic Bags. All pesticides shall be removed from paper and plastic bags to the maximum extent possible when the pesticide is initially mixed for application. Thereafter, containers shall be disposed of as follows.

1. Cut all sides of the container and open the container fully, without folds or crevices, on a flat surface; shake any pesticides remaining in the opened container into the pesticide mix.

2. After cutting and flattening such pesticide containers, dispose of containers in a solid waste facility (sanitary landfill).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984).

Subchapter S. Unused Portions of Pesticides and/or Rinsate of Pesticides Classified as Hazardous Wastes

§181. Constructive Recycling

A. The commissioner shall annually, on or before December 31, publish in the *Louisiana Register* a full and complete list of all pesticides which, upon disposal, are classified as hazardous wastes under regulations of EPA and may supplement such listing at any time when any changes in such classifications are made by EPA.

B. Applicators of pesticides covered under this rule may recover and constructively reuse any unused portions of such pesticides and/or any rinsate of such pesticides by one of the following methods:

1. by immediate reapplication of the unused portion of the pesticide and/or the rinsate in accordance with label and labeling requirements for that pesticide;

2. by transferring to a closed containment system meeting the requirement of §183; or

3. by disposal in a permitted hazardous waste facility.

C. All unused pesticides and/or rinsate from pesticides, classified as a hazardous waste upon disposal, must be removed from containment tanks in less than 90 days after deposit therein.

D. In less than 90 days after the final application for the season of a pesticide which, upon disposal, is classified as a hazardous waste, the applicator must remove the contents of each containment tank; triple-rinse the containment tank by procedures equivalent to triple-rinsing; and apply such tank contents and rinsate in accordance with label and labeling requirements governing the initial application of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter T. Closed Containment Systems

§183. Closed Containment Systems of Commercial Applicators

A. Commercial applicators electing to install closed containment systems for a pesticide which, upon disposal, is classified as a hazardous waste must have such systems completed and operational on or before December 31, 1984. Following the effective date of this rule, any commercial applicator who is certified or licensed after January 1, who elects to install a closed containment system for a pesticide which, upon disposal, is classified as a hazardous waste must have such system completed and operational before the issuance of the certification or license.

B. Containment Tanks

1. Different containment tanks must be installed for different pesticides and/or rinsate of pesticides, except the same containment tanks may be used for two or more pesticides when such pesticides are physically and chemically compatible and when their mixing is not prohibited by their labels.

2. Each containment tank shall meet the following requirements:

a. must be constructed of material of sufficient strength and be compatible with the pesticide and/or rinsate to be placed within the tank;

b. must be free of leaks, cracks, holes, or other deterioration at all times;

c. must be in good operating order at all times;

d. must be designed to allow drainage of the entire contents and be triple rinsed;

e. must be equipped with stopcocks, at appropriate locations, to prevent any leakage of the contents during storage or transfer of the contents;

f. must be equipped with an opening to allow for sampling.

C. Containment Tank Foundation

1. The containment tank foundation shall be solidly constructed of a material sufficiently impervious to contain leaks, spills, and accumulated pesticides and/or rinsate of pesticides.

2. The foundation covering must be free of cracks which might allow leakage.

3. The foundation must be sloped to facilitate cleanup of inadvertent spills.

4. The foundation must be constructed with a rim of sufficient height to contain run-off from cleanup activities or inadvertent spills and be protected from flood waters.

5. The foundation must be so constructed as to discharge all liquids into a sump.

6. Tanks must be located at sufficient elevation to allow visual detection of leakage of the contents.

D. Storage Requirements. All containment tank(s) must be located in a secured area and protected from flood waters.

E. Location Requirements; Submission of Preliminary Site Plans. Containment systems must be located a suitable distance from any adjacent buildings, property lines, or public access roads. Site plans showing location of the containment system must be submitted for the approval of the commissioner prior to construction. These plans may be rudimentary; the purpose of such submission is to avoid unnecessary expense by the applicator.

F. Requirements for Final Approval of Containment Systems. Final plans and specifications for construction of a closed containment system must be approved by the commissioner, and must be filed with the department, subject to the approval of the commissioner, prior to the start of construction. In his consideration for approval of such plans and specifications, the commissioner may, at his discretion, be assisted by an ad hoc advisory committee consisting of such experts as may be appointed by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter U. Surface Impoundments of Hazardous Wastes

§185. Surface Impoundments of Commercial Applicators: Management of Unused Portions of Pesticides and/or Rinsate of Pesticides

A. Unused portions of pesticides and/or rinsate resulting from the application of a pesticide which,

upon disposal, is not classified as a hazardous waste should be handled by one of the following methods:

1. by subsequent, immediate reapplication in accordance with label and labeling requirements for the pesticide;
2. by deposit in a closed containment system which meets the requirements of §173 hereof;
3. by disposal in surface impoundments which meet the requirements of this rule; or
4. by any other methods approved by the commissioner.

B. Surface Impoundment Foundation. Surface impoundments must rest on a foundation or base capable of providing:

1. adequate support for the required liners;
2. sufficient resistance to pressure gradients above and below the liners to prevent failure of the liners due to settlement, compression, or uplift; and
3. double liners must be entirely above the seasonal water table.

C. Surface Impoundment Liners

1. Surface impoundment liners are defined as any continuous layer of material, beneath and on the sides of a surface impoundment, which restricts the downward or lateral escape of pesticides, pesticide rinsate, and/or any leachate.
2. The bottom and all sides of the surface impoundment must be constructed with two liners separated by a barrier of sand or other porous material which is at least one foot thick.
3. Liners must have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with pesticides and/or pesticide residues, rinsate and/or leachate to which they are exposed, stress of installation, and/or stress of daily operation.
4. Liners must have tight seams and joints and cannot contain tears, punctures, or blisters.
5. Liners must extend to the top of the dike required under §185.E.

D. Leachate Detection System

1. A leachate detection system approved by the department must be placed between the liners required in §185.C.

2. The leachate detection system shall be placed above the lower liner at the lowest point of the excavation to assure that any seepage from the upper layer will percolate to this point.

3. The leachate detection system must be so constructed as to permit sampling from an accessible surface location.

4. The leachate detection system must be monitored weekly by the owner-operator; if a leak is detected the impoundment shall be closed as per §187.D.

E. Levees (Dikes)

1. Surface impoundments must be surrounded by levees (dikes) that are designed, constructed, and maintained with sufficient structural integrity to prevent any failure of the levees (dikes).

2. The base of the levee (dike), at land surface level, must be of sufficient width to support the height of the levee (dike).

3. The height of the levee (dike) must be equal to or greater than the requirements of the U.S. Geological Survey's 100-year flood plain.

F. Surface Impoundment Depth Requirements. Surface impoundments must be of sufficient depth to permit a minimum freeboard of at least two feet below the top surface of the dike at all times.

G. Surface Impoundment Cover and Enclosure Requirements

1. Surface impoundments shall be equipped with a cover of translucent material and must be constructed in compliance with all applicable local building codes.

2. Surface impoundments shall be enclosed within a fence of sturdy material, at least six feet in height, with a locked gate. At the option of the owner-operator, containment tanks and container storage may be placed in the same enclosure.

H. Location of Surface Impoundments. Surface impoundments shall be located 100 feet within property lines, and at least 300 feet from personal dwellings and public facilities.

I. Submission of Preliminary Site Plans Required. Site plans shall be submitted for approval by the commissioner prior to any new construction of surface impoundments. These plans may be rudimentary; the purpose of such submission is to avoid unnecessary expense by the applicator.

J. Requirements for Final Approval for Construction of Surface Impoundments. Final plans

and specifications for construction of surface impoundments must be stamped by a licensed engineer who is approved by the commissioner and must be accompanied by the engineer's certification that the surface impoundment to be constructed will meet all requirements of this rule. Final plans and specifications must be filed with the department, subject to the approval of the commissioner, prior to the start of construction. In his consideration for approval of such plans and specifications, the commissioner may, at his discretion, be assisted by an ad hoc advisory committee consisting of such experts as may be appointed by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter V. Surface Impoundments by Commercial Applicators

§187. Schedule for Implementation

A. Commercial applicators may continue to use existing surface impoundments:

1. which, upon monitoring, are approved by the commissioner; or
2. which meet all requirements of §185.

B. Surface impoundments in operation at the effective date of these regulations which can be brought into compliance with the requirements of §185 may be upgraded and thereafter used by commercial applicators. Improvements necessary to bring such existing surface impoundments into compliance with §185 must be completed and in place no later than December 31, 1984. Plans and specifications for bringing such surface impoundments into compliance with §185 must be stamped and certified by a licensed engineer who is approved by the commissioner; the engineer's certificate shall be to the effect that, after completion of the proposed improvements, the surface impoundment will meet all requirements of §185. Plans and specifications for such modifications to existing surface impoundments must be filed with the department, subject to the approval of the commissioner, prior to the start of construction. In his consideration for approval of such plans and specifications, the commissioner may, at his discretion, be assisted by an ad hoc advisory

committee consisting of such experts as may be appointed by the commissioner.

C. Surface impoundments in operation at the effective date of these regulations which, upon monitoring, are not approved by the commissioner and/or which cannot be brought into compliance with the requirements of §185 shall be permanently closed no later than December 31, 1984. The contents of such surface impoundments shall be left undisturbed to evaporate; any solid residues remaining after evaporation of all liquids shall be removed and disposed of at a permitted hazardous waste disposal facility; and the excavation shall be filled under the supervision or with the prior approval of the department.

D. Whenever violative levels of pesticides which, upon disposal, are classified as hazardous waste are detected in any sample taken from a surface impoundment, whether the surface impoundment was in operation at the effective date of these regulations or installed after the effective date of these regulations, such surface impoundment may be immediately and permanently closed, and, if closed, all contents thereof shall be removed and disposed of at a permitted hazardous waste disposal facility. The financial responsibility of closing a surface impoundment belongs to the commercial applicator and/or property owner.

E. Insofar as the disposal of a pesticide waste is concerned, commercial applicators who generate hazardous pesticide waste and who do not comply with these regulations shall be subject to the regulations governing hazardous pesticide waste under the jurisdiction of the Department of Environmental Quality until such time as the commissioner of agriculture promulgates regulations governing hazardous pesticide waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:24:282 (February 1998).

Subchapter W. Emergency Procedures Related to Pesticides

§189. Definitions

A. In addition to the definitions listed below, and unless otherwise provided, the definitions in R.S. 3:3202 and §103 shall apply to Subchapter W of these regulations.

Complaint? any information or report of any pesticide-related problem which could adversely affect human health or the environment.

Emergency? a situation involving pesticides where there is imminent danger to human health or to the environment.

Environment? includes water, air and land and the interrelationship which exists among and between water, air, land and all living things.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:247 (March 1992).

§191. Identification of Emergency

A. Procedure

1. Persons detecting or discovering what they reasonably believe to be an emergency involving the use, misuse or storage of pesticides shall immediately contact the office of Pesticide and Environmental Programs via the 24-hour telephone hotline at (225) 925-3763.

2. Personnel receiving any complaint related to pesticides shall record the information required on department-approved telephone complaint forms.

3. Personnel receiving any complaint that could constitute an emergency shall immediately notify the director.

4. Upon notification, the commissioner shall make a determination as to whether an emergency exists. This determination shall be made as soon as possible. In determining the gravity of the danger, the commissioner shall consider whether the pesticides have resulted in the death of marine life or wildlife and whether the maximum contaminant levels established by §203 have been exceeded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:247 (March 1992).

§193. Declaration of Emergency

A. Upon determining that an emergency exists, the director shall immediately declare in writing that an emergency exists and direct that the following emergency procedures be employed. The director shall notify the appropriate governmental agencies and the media as soon as is practical, and in no case later than eight hours after declaration of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:247 (March 1992).

§195. Response to Emergency

A. Containment. At the earliest possible time, the director shall direct and supervise efforts to accomplish the containment of the emergency.

B. Identification of Pesticide. The pesticide or pesticides involved in the emergency shall be identified. Efforts to identify the pesticide(s) shall include, but not be limited to the following:

1. labels of containers of the pesticides or other substances involved shall be consulted;

2. the point source or non-point source shall be investigated and if determined, the relevant records and storage areas of that source examined;

3. all emergency reports shall be reviewed by the director's staff;

4. if indicated, an investigation shall be made relative to any recalled, suspended or canceled pesticides;

5. samples shall be obtained at the earliest possible time and analyzed in accordance with procedures approved by the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency.

C. Reporting Requirements. If it is reasonably believed that a pesticide emergency has taken place, all appropriate requirements for reporting to the department shall be complied with, according to §191.

D. Investigation. In investigating any possible or known pesticide emergencies, the following information shall be sought and recorded:

1. the date, time and location of the incident;

2. the date and time the incident was reported to the department;

3. the department employee receiving the report;

4. from whom the report was received;

5. who initiated the investigation, along with the date, time and place the investigation was initiated;

6. the identity and location of any witness(es);

7. the time, place and circumstances under which each witness' statement was taken and whether such statement was confirmed;

8. the time, description and location of any samples taken;

9. the time, description and location of any other physical evidence; and

10. any information obtained, including that obtained through the inspection of records relevant to causation, identity of pesticide, containment, clean-up, and disposal.

E. Remediation

1. At the earliest possible time, the director shall develop a written plan for clean-up and disposal of pesticide waste as necessary to accomplish remediation of the emergency. In developing said plan, the director shall consider at a minimum, the following information if ascertainable:

a. the location of the land where the pesticide(s) was applied;

b. the year, month, date and time the pesticide(s) was applied;

c. the product name(s) used on the registered label, and the scientific name(s);

d. the inert ingredients contained in the pesticide(s);

e. the United States Environmental Protection Agency and state registration numbers of the pesticide(s) that were applied;

f. the crop and site to which the pesticide(s) was applied;

g. the amount of pesticide(s) applied per acre, or other appropriate measure;

h. the concentration of pesticide(s) that was applied as well as concentrations in the soil and water to indicate extent of contamination;

i. the applicator's business name, if any;

j. the applicator's name, address, and telephone number;

k. if applied aurally, the direction and velocity of the wind at the time the pesticide(s) were applied; and

l. possible hazards to human health that may result from the release considering both direct and indirect effects of the pesticide(s) application.

2. The director shall issue appropriate remedial orders as are necessary to accomplish the plan for clean-up and disposal.

F. Health Related Complaints. Any complaint involving a health-related emergency shall be handled according to the agreement entered into between the Louisiana Department of Agriculture and Forestry and the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural and Environmental Sciences, LR 18:247 (March 1992), LR 20:641 (June 1994).

§197. Declaration of Termination of Emergency

A. When remediation is complete or there no longer exists a situation involving imminent danger to human health or the environment, the director shall declare in writing that the emergency has ended. The director shall notify the appropriate governmental agencies and the media as soon as it is practical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992).

§199. Department Training

A. The department shall train its agricultural and environmental specialists in procedures relating to emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:642 (June 1994).

Subchapter X. Water Protection

§201. Definitions

Base Line Conditions? the pesticide level found in the water of a site immediately preceding the pesticide application season.

Maximum Contaminant Level? the maximum permissible concentration level of a pesticide in the waters of the state.

Pesticide Application Season? that period of time during the year that insecticides, herbicides or other pesticides are normally used on agricultural lands in a given area.

Reasonable Expectation of a Threat? a condition that is probable to lead to substantive injury to human health or the environment.

Threat? a condition that would lead to substantive injury to human health or the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992).

§203. Establishment of Standards for Pesticides in Water

A. The maximum contaminant level standards as published in 40 C.F.R. Parts 141,142, and 143(1991) shall be incorporated as standards for pesticides in waters of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992).

§205. Procedures for the Determination of Threats

A. The procedures for determining whether pesticide concentrations exceed maximum contaminant level standards or pose a threat or reasonable expectation of a threat to human health or the environment shall be:

1. The department shall maintain a water monitoring program.

a. Water sample collection sites shall be distributed throughout the state. The locations of said sites shall be selected by criteria including, but not limited to:

- i. those areas that have agricultural land use;
- ii. those areas that have water drainage from agricultural lands;
- iii. the propensity for runoff due to topography, soil types and other characteristics;
- iv. data from aquifer potential maps used to locate well sampling sites in a wide spectrum of the state's aquifers; and
- v. proximity to pesticide application of irrigation wells or shallow private water wells.

b. The water sampling frequency requirements shall be based upon criteria including, but not limited to:

- i. the pesticide application season in the area of the water collection sample site;
- ii. sampling shall be at least monthly during any pesticide application season.

c. Analytical parameters shall be established for each sampling site and shall be based upon, but not limited to, the following criteria:

- i. the major crop(s) grown in the area of the monitoring site;
 - ii. the pesticide(s) most commonly used on the major crop(s) of the monitoring site area; and
 - iii. the base line conditions existent prior to the pesticide application season.
- d. Base line conditions at each water sampling site shall be established by water sampling and analysis prior to the pesticide application season.
- e. The analysis of water samples shall be accomplished in accordance with procedures of the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency.

f. The department shall sample and test fish tissues once a year, unless the commissioner determines that more frequent testing is needed.

2. The commissioner shall consider results of the analysis of the samples, the criteria established in R.S. 3:3306(C), and/or other relevant data and shall promptly determine whether a threat or reasonable expectation of a threat to human health or to the environment exists and whether the standards as adopted herein have been exceeded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992).

§207. Determination of Appropriate Action

A. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists or that the maximum contaminant level standards as adopted herein have been exceeded he shall:

1. promptly direct that thereafter the Emergency Procedures established by §189 et seq. be employed.

2. complete sufficient investigation as to permit appropriate action.

B. In determining appropriate action as to the pesticide involved the commissioner shall consider:

1. registration denial;
2. stop orders for use, sales or application;
3. label changes;

4. remedial or protective orders;
5. injunctive relief; and
6. any other relevant remedies.

C. In determining appropriate action as to the responsible party the commissioner shall consider:

1. referral for criminal prosecution;
2. referral to the Advisory Commission on Pesticides;
3. remedial or protective orders;
4. injunctive relief; and
5. any other relevant remedies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:249 (March 1992).

Subchapter Y. Pesticide Wastes

§209. Procedures for Monitoring

A. In the course of conducting routine monitoring of pesticide use in accordance with the procedures described in §161, the commissioner shall monitor for the presence of pesticide wastes.

B. Monitoring for the presence of pesticide wastes shall include, but not be limited to, investigations involving canceled or suspended products, spill responses, and citizen complaints.

C. The procedures for monitoring pesticide wastes shall include but not be limited to the following activities:

1. visual or other sensory observations of conditions which may support the probability or actuality of the presence of pesticide wastes;
2. inquiries into the relevant circumstances surrounding the probability or actuality of the presence of pesticide wastes which may include sample taking and analysis; and
3. a preliminary determination as to whether or not there is a presence of pesticide wastes based upon the observations and the inquiries or upon relevant data, shall be made by the director of pesticide and environmental programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3273.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:609 (May 1993).

§211. Procedures for Determinations

A. When the director makes a preliminary determination as a result of monitoring or otherwise, that there is a presence of pesticide wastes as a result of monitoring or otherwise, the procedures for determining whether the concentrations of pesticide wastes exceed promulgated federal or state standards, or that the concentrations of pesticides pose a threat or reasonable expectations of a threat to human health or to the environment are as set out below.

1. The commissioner shall take into consideration the following:

- a. the results of the analysis of samples, if available;
- b. the criteria established in R.S. 3:3274(C) as of the adoption date of these regulations;
- c. whether a pesticide concentration exceeds and the degree to which it exceeds the maximum concentration of pesticide contaminants listed in Table 5 of LAC 33:V.4903 as amended through November 1992; and
- d. other relevant data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3274.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:609 (May 1993).

§213. Appropriate Actions

A. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes do not exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides do not pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate orders to provide for proper disposal;
2. take such other action as the commissioner deems appropriate under circumstances.

B. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate protective orders to mitigate the further contribution to the accumulation of the pesticide or pesticide wastes;

2. issue remedial orders directing prompt remedial action to correct the offending situation;

3. communicate his determination to any appropriate governmental agency;

4. participate in issuing a public communication concerning the determination. Where a cooperative agreement exists, each public communication shall be issued in accordance with same;

5. take such other action as the commissioner deems appropriate under circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:610 (May 1993), amended LR 19:1120 (September 1993).

§215. Record Keeping

A. In addition to the record keeping requirements under §§167, 169 and 171, or otherwise, all persons conducting or having conducted activities of, generating, owning, possessing, storing, transporting, or disposing of pesticide wastes, shall keep copies of all records required by local, state or federal laws or regulations for a period of not less than three years from the receipt of any such record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:610 (May 1993).

§219. Transportation of Pesticide Waste

A. All persons transporting pesticide wastes shall transport such wastes in a manner that conforms to the procedures and requirements set forth by the Louisiana Department of Environmental Quality and the Louisiana Department of Public Safety, in addition to all other applicable local, state and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:610 (May 1993).

Subchapter Z. Health Complaints

§221. Notification of Pesticide Poisoning

A. Each physician who treats a health complaint that is diagnosed as caused by pesticide poisoning shall provide notice of the poisoning to the director of the Division of Pesticide and Environmental Programs via the 24-hour telephone hotline, (225) 925-3763, within 24 hours of the diagnosis and in writing posted within three days of the diagnosis. Each report shall contain the following:

1. the name, address, and telephone number of the treating physician;
2. the name, address, and telephone number of each patient treated;
3. date of treatment; and
4. the location of the facility where the reporting physician provided treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and 3:3208.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences Programs, LR 20:642 (June 1994).